

## SECOND AMENDMENT TO AGREEMENT FOR THE REDEVELOPMENT AND RENOVATION OF THE DURHAM NINTH STREET COMMERCIAL DISTRICT

This contract amendment ("Amendment") is dated and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2014, between CITY OF DURHAM, a North Carolina municipal corporation, (the "City"), and CPGPI REGENCY DEVELOPMENT, LLC (the "Company"), a limited liability company organized and existing under the laws of North Carolina, hereinafter collectively referred to as the "Parties".

The City and the Company entered into a contract titled "Agreement for the Redevelopment and Renovation of the Durham Ninth Street Commercial District," dated June 17, 2013. That contract is referred to as the "Original Contract."

An amendment to the Original Agreement was executed on November 11, 2013, titled, "Amendment to Agreement for the Redevelopment and Renovation of the Durham Ninth Street Commercial District," (the "First Amendment"). The purpose of the First Amendment was to modify certain estimated costs for the project, the scope of work and scheduling.

Since executing the First Amendment, the Parties required additional time to finalize the scope of work and cost estimates for the project. The project has also required additional coordination with the NC Department of Transportation and Duke Energy (for lighting). Accordingly, the Original Contract is hereby amended as follows:

1. In Section 2.15 (Streetscape Improvements), on page 4 of the Original Agreement, delete item "(a)" beginning at line 147 and replace with the following:

(a) demolition of sidewalk, curb & gutter, milling pavement 1 ½ in. depth west of the centerline of Ninth Street.;

2. In Section 3.2.3.3 (Failure to Enter into Construction Contract), on page 7 of the Original Agreement, at line 293, delete the date in the first sentence and replace with "October 1, 2014".

3. Delete Section 3.2.3.7 (Completion of the Streetscape Improvements by the City), on page 9 of the Original Agreement in its entirety and replace with the following:

3.2.3.7 Completion of the Streetscape Improvements by the City -- If after conclusion of the engineering design services either (i) the Company is unable to secure a Construction Contract with a Streetscape Contractor by October 1, 2014; or (ii) the Company enters into a Construction Contract with a Streetscape Contractor, but the Company fails to complete the Streetscape Improvements Construction within the time period set forth in Section 4 below;

and under either scenarios (i) or (ii), the Company causes the Minimum Private Investment to occur within time frame described in Section 3.1 of this Agreement, the City shall be obligated to complete the Construction of the

Streetscape Improvements pursuant to the approved final engineering design within reasonable conformance of the planned project schedule after adjustment for time delays caused by the failure of the Company to cause the Construction, and to pay the Company for documented costs and charges of the Work performed in accordance with this Agreement, but excluding profit for the Company.

4. In Section 4.0 (Provisions for Nonperformance), on page 9 of the Original Agreement, delete the phrase “within 1 year from the Effective Date” at line 435 and replace with “by January 31, 2015”.

IN WITNESS WHEREOF, the City and the Company have caused this Amendment to be executed under seal themselves or by their respective duly authorized agents or officers.

**CITY OF DURHAM**

ATTEST:

\_\_\_\_\_

By:\_\_\_\_\_

Preaudit Certification, if required:

**COMPANY**

CPGPI REGENCY DEVELOPMENT, LLC  
a North Carolina limited liability company

By \_\_\_\_\_  
Jack Dunn, Manager

Acknowledgement by CPGPI REGENCY DEVELOPMENT, LLC:

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

I, a notary public in and for the aforesaid county and state, certify that \_\_\_\_\_ personally appeared before me this day and stated that he is \_\_\_\_\_ of REGENCY CENTERS CORPORATION, in its capacity as General Partner of REGENCY CENTER, L.P., a Delaware limited liability company, in its capacity as Manager of CPGPI REGENCY DEVELOPMENT, LLC a North Carolina limited liability company, and that by authority duly given and as the act of the company, he signed the foregoing Amendment with the City of Durham and the corporate seal was affixed thereto.

This the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

My commission expires:  
\_\_\_\_\_

\_\_\_\_\_  
Notary Public

(NOTARIAL SEAL)